



**Superior Court of California
COUNTY OF ALAMEDA**

Criminal Division
René C. Davidson Courthouse
1225 Fallon Street, Oakland, CA 94612
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Memorandum re.
Handling Criminal Cases During the Covid-19 Court Closure

Date: Updated as of March 26, 2020

The following is designed to address incoming questions during the Court's COVID-19 closure period. It will be updated as needed, however, this is an ever-changing, fluid situation. We appreciate your patience.

ADULT CRIMINAL COURT DATES BETWEEN MARCH 17, 2020 AND APRIL 7, 2020 (the "Closure Period").

1. How are time waiver appearances being reset during the Closure Period?

All time waiver appearances, whether misdemeanor or felony, in or out of custody are being reset to a date **at least 8 weeks** from the currently set calendar date.

2. Are notices being sent regarding these reset dates?

No, the Court is not sending notices unless there are unusual circumstances. Counsel are to notify their clients of the new court dates. If the court date being continued is a first appearance arraignment, the District Attorney's Office (DAO) is sending notice. Attorneys and parties are encouraged to check the [Odyssey Portal](#) regularly to confirm their newly scheduled dates.

3. How are No Time Waiver (NTW) cases being handled during the Closure Period?

The Court, DAO, Public Defender's Office (PDO), and members of the private defense bar are in the process of running all criminal calendars during the Closure Period to track NTW cases with dates currently set. Attorneys involved in those cases are discussing the appropriate course of action for each. The Court has stated it will expedite the signing of orders stipulating to the release of defendants in those cases. The most efficient way to process any such stipulations is to use the Court's [Odyssey E Filing System](#) and jointly request an ex parte order rather than requesting a new hearing date.

IN-CUSTODY DEFENDANTS

4. Is the Court or its partners doing anything to facilitate the release of in-custody defendants during the Closure Period?

Yes. The Court and its partners are all working to facilitate the release of in custody defendants where individual case circumstances permit. Examples of these efforts include the following:

- Alameda County Sheriff Ahern and District Attorney O'Malley have communicated with local law enforcement, encouraging the "cite release" of arrestees wherever appropriate. Arrestees being "cited out" are being given court dates 8 weeks from their date of arrest.
- The Court and the Probation Department continue to operate the pretrial risk assessment pilot to facilitate the pre-arraignment release of eligible arrestees.
- On Monday, March 16, 2020, the Court opened a special "OR Calendar" at our Wiley W. Manuel Courthouse (WWM) in Oakland to consider requests to release in-custody defendants on their own recognizance ("OR") pending trial. 67 individuals were granted OR and were subsequently released. Judges at WWM continue to conduct ongoing OR reviews.
- On Thursday, March 19, 2020, upon the joint request of the Court's criminal justice partners, including the District Attorney, the Public Defender, and the Alameda County Defense Bar, the Court ordered the immediate, early release of 247 previously sentenced inmates who had been otherwise scheduled for release at varying times through April 30, 2020. They will be considered to have served their full sentence.
- On Friday, March 20, 2020, upon the joint request of the Court's criminal justice partners, including the District Attorney, the Public Defender, and the Alameda County Defense Bar, the Court ordered the immediate, early release or OR release of 8 individuals deemed "vulnerable". Those released early will be considered to have served their full sentence; those OR's were given a new court date in 8 weeks.
- On Wednesday, March 25, 2020, upon the joint request of the Court's criminal justice partners, including the District Attorney, the Public Defender, and the Alameda County Defense Bar, the Court authorized the in field or after booking citation release of individuals arrested on bench warrants in connection with most misdemeanor offenses, diversion programs, and Alameda County Collaborative Courts. Those "cite released" individuals will be issued a "promise to appear" 8 weeks from their arrest date.
- The Court, DAO, and defense counsel are communicating daily concerning defendants with sentencing dates during the Closure Period that contemplate

release at sentencing. The goal is to order the release now of all eligible defendants and re-set sentencing dates from an out-of-custody basis.

- The Court is encouraging counsel in all criminal matters to reach stipulated agreements regarding dispositions, release dates, and court continuances and to electronically file (eFile) such stipulations and requests for orders on an ex parte basis. The Court will review and make such orders without need for calendared court appearances.

5. If an arrestee is released on its own recognizance (OR'd) or posts bail, what will the next court date be?

Arrestees who are OR'd or bail out of custody will be given a new court date at least 8 weeks from the date of their release. Please check the [Odyssey Portal](#) regularly to confirm future dates.

6. Is the Court conducting arraignments for those arrestees who are detained in custody pending the filing of criminal charges?

The [Emergency Order](#) granted by the Chair of the Judicial Council authorizes the extension of the usual 48-hour adult criminal arraignment standard to 7 days during the Closure Period.

The Court is working with its justice partners to develop in-custody arraignment calendars within the limitations of our COVID-19-related staffing and health and safety constraints. The DAO is continuing to make charging decisions within 48 hours of arrest; thus all arrestees not charged will be released. For those charged with criminal offenses who have not been released prior to arraignment through the pretrial risk assessment pilot, the Court will attempt to conduct in-custody arraignments only (no out-of-custody arraignments), on Tuesdays and Fridays during the Closure Period in one or more court locations.

These first, test, in-custody arraignment calendars began on Friday, March 20, 2020. East and South County misdemeanors are heard in Dept. 702 at the East County Hall of Justice (ECHOJ); felonies are heard in Dept. 705. North County misdemeanors are heard in Dept. 111 at WWM; felonies are heard in Dept. 112.

However, starting Friday, March 26, 2020, the Court will conduct its first, test video arraignment calendar in Dept. 105 at WWM. As a result, all felony arraignments will be heard at ECHOJ on Friday, March 26. (Please see FAQ No. 7. for additional details.)

7. Is the Court conducting video arraignments for those arrestees who are detained in custody pending the filing of criminal charges?

The Court anticipates conducting a test video arraignment calendar on Friday, March 27, 2020, in Department 105 at WWM. This calendar will be comprised of in-custody arrestees county-wide charged with misdemeanor offenses. Arrestees will appear from Alameda County's Santa Rita Jail (SRJ) via videoconference and will be linked to and broadcast in the courtroom with a view of the judge presiding over the arraignment calendar. Members of the DAO, PDO, and defense bar will be present in the courtroom at WWM and will also be able to join the videoconference remotely.

No contact interview rooms are available in the ITR section of SRJ for attorneys who wish to interview arrestees prior to arraignment. Attorneys will not be able to appear with inmates at the jail during this initial video arraignment trial period, as the video-arraignment room is in the secure side of the SRJ, but the Court continues to explore additional video arraignment locations that will permit the co-location of arrestees and defense attorneys.

As part of this video arraignment test calendar, on Friday, March 27, 2020, the location of felony arraignments county-wide will shift to ECHOJ. South and East County felonies will be arraigned in 705. North and West County felonies will be arraigned in 702.

IN-CUSTODY AND NO TIME WAIVER CASES DURING THE CLOSURE PERIOD

8. How much time will I have to talk to my client during the in-custody arraignments during the closure period?

Counsel will have limited time to speak to their clients during these in-custody arraignment dates. The calendars will be large, interview space is limited, and the Court will continue to attempt to comply with Alameda County Public Health's 6-foot social distancing guidelines.

Accordingly, the Court strongly recommends that defense counsel speak or meet with their clients and members of the DAO before their scheduled arraignment date, as time permits. Any matters not handled on the scheduled arraignment date will be continued to the next bi-weekly arraignment date for further arraignment.

9. What future dates will be scheduled at the in-custody arraignment?

The future court date scheduled will depend on the case. Here are some common examples:

- If a defendant is OR'd at arraignment, a future court date will be set 8 weeks later.
- If a defendant charged with a misdemeanor is detained at arraignment, enters a plea of not guilty, and chooses not to waive time, a no-time-waiver (NTW) court or jury trial date will be set consistent with the [Emergency Order](#) and the time standards set forth in the March 23, 2020 [Statewide Order](#) of the Chief Justice of California and the Chair of the Judicial Council.
- If a defendant charged with a felony is detained at arraignment, enters a plea of not guilty, and chooses not to waive time, a NTW preliminary examination (PX) date will be set within 15 court days. (The [Emergency Order](#) granted by the Chair of the Judicial Council authorizes the extension of 10-court day speedy preliminary examination rights to 15 court days.)

At this time, the Court does not have the resources to calendar any intervening court dates, but it encourages counsel to actively meet and confer concerning case resolution and notice the court of any related stipulations through the Court's [Odyssey EFiling System](#).

10. Will the Court hold a PX calendar during the Closure Period?

In view of the time standards set forth in the [Emergency Order](#), the Court opened its first PX calendar in Dept. 709 at ECHOJ, starting on Tuesday, March 24, 2020. All NTW PXs set county-wide during the Closure Period will be set in this department. The Court will attempt to maintain this PX calendar daily from March 24 through the duration of the Closure Period. However, the Court's resources are severely limited at this time and are likely to be further constrained as COVID-19 related restrictions continue. The Court will modify this plan as resources and health and safety guidelines dictate.

Please note, throughout the Closure Period, the Court will continue to be closed to the public. All attorneys entering local courthouses must show their bar or employee cards upon entrance at weapons screening stations. Only witnesses properly subpoenaed will be allowed to enter ECHOJ. They must be accompanied by an attorney or must show their subpoena. Witness or defendant family, friends, or companions will not be permitted to enter unless lawfully permitted as a victim support person.

11. Will telephonic appearances be available to counsel during the Closure Period?

Yes, in view of the COVID-19 crisis and related health directives, the Court has exercised its authority under the Emergency Order to permit telephonic appearances in criminal matters. Please directly telephone the department in which your matter is set. Numbers can be found in the [Department Directory](#).

If multiple counsel need to appear telephonically and cannot have a single attorney appear or telephone on all counsel's behalf, we will open a conference line to facilitate a group telephonic appearance.

ADD-ONS & DISPOSITIONS

12. If my client in a misdemeanor matter wishes to change his plea, how can I resolve his case?

In view of the COVID-19 pandemic and social distancing mandates the Court is attempting to follow, the Court will permit misdemeanor pleas in absentia. The DAO, PDO, and ACBA representatives are currently working out a protocol for the remote, electronic resolution of these cases. Once finalized, stipulated misdemeanor dispositions will be electronically filed with the appropriate related paperwork (executed fine and fee breakdowns, DUI or DV terms, etc.). If completed and submitted jointly and in full, and the Court agrees, the reviewing judge will accept the plea and either vacate or set future dates as may be appropriate. If the paperwork is incomplete or the Court disagrees with the proposed disposition, the plea will be rejected.

13. If my client in a felony matter wishes to change his please, how can I resolve his case? Can I add the matter on calendar during the Closure Period?

Yes, felony dispositions can be added on calendar during the closure period, but the terms of the disposition must be certain and jointly agreed-to before the add-on will be permitted. The procedure is as follows:

- Attorneys wishing to add on such a case must jointly email Dept. 709 (dept709@alameda.courts.ca.gov) by 12:00 noon the day before the requested court date.
- The clerk in 709 will add the case on to the 702 calendar for the next arraignment date (Tuesdays and Fridays with the exception of Cesar Chavez week, when dates will be April 1 and April 3, 3030). 702 will hear all add-on dispositions county-wide on the Tuesday and Friday arraignment dates ONLY.
- The clerk will add on NO MORE than 12 cases for disposition on any given calendar. If the calendar is full, the clerk will send a reply email to the requesting attorneys saying the next court date was given instead (e.g., Tuesday full, so matter put over to Friday).
- The clerk will not send a reply email if matter was successfully added to the 702 calendar on the requested date. Attorneys should regularly check the Odyssey Portal to confirm date add-on.

COLLABORATIVE COURTS

14. How are matters in the Collaborative Courts being scheduled?

Due to the specialized nature of our Collaborative Courts (including Veterans Court, ReEntry Court, Early Intervention Court, Behavioral Court, and Drug Court), our Collaborative Court judges are working with attorneys and service providers to set new court dates and provide telephonic resources based on the individualized service needs of each particular client. These dates are generally being scheduled within 60 to 90 days of the dates currently calendared during the Closure Period.

15. Are new cases being referred to the Collaborative Courts during the Closure Period?

The Collaborative Courts will not accept new referrals until further notice. Recurring telephone conferences allow the court and stakeholders to continue working with existing collaborative court participants during the Closure Period.

JUVENILE MATTERS

16. Are Juvenile detention hearings being heard during the Closure Period?

The [Emergency Order](#) granted by the Chair of the Judicial Council authorizes the extension of the usual 48-hour juvenile detention standard to 7 days.

However, starting Friday, March 20, 2020, as resources and health and safety directives permit, Juvenile detention hearings are being heard during the Closure Period on Tuesdays and Fridays in Department 401 as follows:

- 602 petitions at 9:00 a.m.
- 300 petitions at 1:30 p.m.

17. What is the policy for continuing Juvenile Detention and Dependency matters during the Closure Period?

The [Emergency Order](#) granted by the Chair of the Judicial Council authorizes the extension of the usual 15 court day Juvenile hearing standards by 15 calendar days for any hearing dates that would otherwise expire during the Closure Period.

The Court, Probation, Social Services, and counsel in both dependency and delinquency matters are conferring with these standards in mind and are continuing hearings to dates outside the Closure Period on a case-by-case basis. Probation and Social Services will notice the minors and their families/guardians as needed.

18. Will the Juvenile Clerk's Window be open to the public for filings during the Closure Period?

No, during the Closure Period, all courts, including Juvenile, will be closed to the public. That means all filing windows will be closed to the public, including attorneys (attorneys can eFile through the Court's [Odyssey EFiled System](#)). However, in the Juvenile setting, Probation, Social Services, and other legally necessary court partners will be permitted to file the following materials at Juvenile filing windows:

- 300 and 600 petitions
- Intake and Detention reports
- Warrants
- Any emergency medical request or JV220

SOCIAL DISTANCING

19. How will the Court accommodate social distancing and other health and safety measures during any in-person court appearances?

The Court and its justice partners are making every effort to comply with the most current health directives offered by Alameda County Public Health. Some of these measures include the following:

- All court attendees are directed to comply with social distancing guidelines (6-foot separation), wherever possible.
- Inmates are being transported in only partially-loaded buses to ensure sufficient spacing between passengers. They are similarly brought to court in small groups to allow the greatest spacing that security measures permit.
- No more than 10 attorneys may be present in a courtroom at any time. ACSO is authorized to ask attorneys in excess of 10 to wait in the vestibule, outside halls, or other appropriate space.
- Attorneys must maintain a 6-foot distance from each other and are encouraged to use courtroom layouts to facilitate that separation (e.g., stand on either sides of the "bar" or counsel table).
- If you are sick, please do not come to court; either secure another attorney to specially appear for you, or contact the courtroom clerk to appear telephonically, as suggested above.
- Used Courtrooms and related interview spaces are cleaned and disinfected after the conclusion of each open court session.

AFTER THE CLOSURE PERIOD

20. Will the Court resume full operations after the Closure Period, on April 8, 2020?

The Court's preference is to resume full operations after the Closure Period, on April 8, 2020. However, the health and safety of the Court's members, partners, and the community are paramount. In view of the extension of certain other government and school closures to May 1, 2020, the Court is considering requesting a similar extension of its emergency order. The Court will continue to follow the directives and guidelines of the Alameda County Public Health Agency and the Governor's Office and will continue to modify operations as appropriate. The Court will continue to update the public as to any related modifications through press releases, [Twitter announcements](#), and on its [COVID-19 webpage](#).